

Notice of Allowability

Application No.

09/926,310

Examiner

N. Bhat

Applicant(s)

RASMUSSEN, OLE-BENDT

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the preliminary amendment of October 11, 2001.
2. ☒ The allowed claim(s) is/are 106-175 re-numbered as 1-70 respectively.
3. ☒ The drawings filed on 11 October 2001 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**


7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. _____. |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |


N. Bhat
Primary Examiner
Art Unit: 1761

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Specification:

Page 1, line 1, insert --This application is a 35 U.S.C. 371 of PCT/EP00/03713 filed April 3, 2000.--

Page 2, lines 6-7 delete "The food product according the present invention is characterised as defined in claim1."

Page 4, lines 27-28, delete "Specific examples of the nature of components A and B are given in claims 25-38."

Page 6, line 29, delete" stated in claims 6 and 8"

Page 7, line 1, delete "are stated in claims 3 and 4"

line 15, delete "These aspects are dealt with in connection with method claims."

Page 12, line 22-23, delete "(see claims 82 and 83)"; delete "The different ways of realising the cutting are specified in claims 84 to 86."

line 23, delete "specified in claim 86"

Page 13, line 17, delete "A very advantageous way of achieving the modeling of B' around the segments of A' is stated in claim 73 and in a preferred embodiment is claim 74."

line 26, delete "specified in claim 75 and"

Page 14, line 13, delete "one being stated in claims 93 and 94"

line 24-25, delete "The alternative options for transformation of B' (which may in some cases be combined) are stated in claims 46-57."

Page 19, line 22 insert --Brief Description of the Drawings--

On a separate Page following the claims insert the following abstract:

--Abstract of the Disclosure

Two or more different materials such as food material are co-extruded through adjacent orifices of an extruder. The flows of the two materials are cut in a direction transverse to the flow to form segments of flow. These segments are interspersed so as to join upstream and downstream of each segment of first material to a segment of a second material. Generally two rows of joined segmented flows are extruded side by side. Preferably between the tow rows is formed a boundary cell wall which usually is transformed to a harder material after extrusion. Cell walls of the harder material may surround, in two or three dimensions, cells of softer or foamed material. The apparatus and method to provide the food product having the cell like structure is particularly useful for producing confectionery products formed of chocolate, marzipan or dough materials.--

In the Claims:

Claim 120, line 3, delete "0,5" and insert --0.5 --

2. The following is an examiner's statement of reasons for allowance:

The invention relates to a product, process and apparatus for making a food product which has been designed to have a cell like structure by co-extrusion of

several components of foods providing a three-dimension food product elongated in at least the z-dimension and consisting of at least two components A and B which have been co-extruded to become interspersed with each other, in which a plurality of cells of component A are surrounded at least in the xz plane by at least one component B which forms cell walls surrounds the A component, wherein the B component is a solid at 20°C, the cells of component A are arranged in at least two mutually distinct rows extending generally in the z direction, each of the rows of cells being separated from each adjacent rows by generally continuous in the z direction boundary cell wall of the B component, and either component A is a fluid having no compression yield point at 20°C or is a sold having plastic, pseudoplastic or viscoelastic consistency at 20°C and a compression yield point at 20°C which is less than 0.5 x the compression yield point of B at 20°C, or component A is an expended material containing at least 50% by volume gas the food product, the apparatus for making the food product and the process of making the three-dimensional food product as claimed has not been taught either singularly or in combination by the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Finkel et al. teach pastry crust and pastry crust dough wherein

the dough is characterized by having multiple, discontinuous layers which are interrupted by regions of gluten and the starch/fat/polyol phase. Langler teaches a dual textured co-extruded food comprising fruit snake pieces comprising a soft, supportive fruit containing shell portion and a second more fluid, variably textured core portion. Brown et al. teaches making a multilayered puffed R-T-E cereal having at least three cereal layers having a bulk density ranges from 0.06 to 0.15 g/cc. Ramnarine teaches a co extrusion of outer expanded dough layer having two filler materials co-extruded there with to provide a pillow shaped final product having an outer layer of expanded dough and two different filler materials. Koppa teaches a method of triple co-extruding bakeable goods, a first material is completely enrobed by a second material which in turn is completely enrobed by a third material. The first and third materials are cookie doughs of differing composition and the first material, which forms the core, is a chew texture.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 703-308-3879. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 703-308-3959. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5665.